

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Bernard Smith, #00360-016,)	
)	C/A No. 3:07-64-MBS
Plaintiff,)	
)	
vs.)	
)	
Bureau of Prisons; L. Carson, Unit)	O R D E R
Manager; and K. Mack, Supervisor of)	
Education,)	
)	
Defendants.)	
_____)	

Plaintiff Bernard Smith is incarcerated at the Federal Correctional Institution in Estill, South Carolina. On January 1, 2007, Plaintiff, proceeding pro se, filed the within complaint pursuant to Bevins v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), asserting that Defendants misapplied a Bureau of Prisons policy concerning the provision of free postage, and that Defendants wrongly required him to take part in a literacy program.

Defendants filed a return, motion to dismiss, and motion for summary judgment on May 21, 2007 (Entry 26). Defendants contend, among other things, that (1) Plaintiff has failed to exhaust his administrative remedies, (2) Plaintiff has failed to state a claim upon which relief could be granted; and (3) the individual Defendants are entitled to qualified immunity. On May 25, 2007, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the summary judgment procedures and the possible consequences if he failed to respond adequately. Plaintiff filed no response to the motion for summary judgment; rather, on June 7, 2007, he filed a motion to stay proceedings. On July 25, 2007, Plaintiff filed a motion to amend complaint. On August 15, 2007, Plaintiff filed a motion for temporary injunction.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On January 24, 2008, the Magistrate Judge denied Plaintiff's motions to stay and amend. Also on January 24, 2008, the Magistrate Judge issued a Report and Recommendation in which he recommended that Defendants' motion to dismiss and for summary judgment be granted, and that Plaintiff's motion for temporary injunction be denied. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendants' motion to dismiss and for summary judgment (Entry 26) is **granted**. Plaintiff's motion for temporary injunction (Entry 34) is **denied**.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina
February 21, 2008

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.